

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPLAINT OF RANDALL EHRLICH

Docket No. C2020-1

**RESPONSES OF THE UNITED STATES POSTAL SERVICE TO
QUESTIONS 1-4 OF CHAIRMAN'S INFORMATION REQUEST NO. 2**
(February 18, 2020)

The United States Postal Service hereby provides its responses to the above-listed questions of Chairman's Information Request No. 2, issued on February 4, 2020. Each question is stated verbatim and followed by the response.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

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February 18, 2020

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1. The Postal Service states that the Complainant "admits he has been and remains the owner of at least one dog whose behavior required the issuance of a dog hold." Motion to Dismiss at 13. However, neither the Complaint¹ nor response to Motion to Dismiss² contains any admission by the Complainant that he remains the owner of the dog who originally triggered the dog hold. Rather, the Complainant alleges that the offending dog was adopted to a third party.³
 - a. Please explain the basis for the Postal Service's statement in the Motion to Dismiss.
 - b. Please explain whether, if the Complainant's allegation were taken as true, the Postal Service would reinstate his porch mail delivery and lift the dog hold on his residence.
 - c. If the answer to (b) is no, please provide justification as to why retaining a dog hold on a residence when there is no longer any potential threat to a mail carrier is consistent with 39 U.S.C. § 403(c).
 - d. If the answer to (b) is no, please provide examples of other situations where the Postal Service continues a dog hold on a residence even though there is no potential threat to a mail carrier.

RESPONSE:

a.

The basis for the Postal Service's statement is that there has been more than one offending dog at Complainant's residence that justified the issuance of a dog hold. Although Complainant alleges that the dog "Cookie" was adopted to a third party on July 30, 2015, the Postal Service states, and Complainant admits, that he acquired another dog after Cookie was adopted.⁴ This different dog also behaved aggressively when the

¹ Complaint of Randall Ehrlich, December 23, 2019 (Complaint).

² Response to Motion to Dismiss, January 31, 2020 (Response to Motion to Dismiss).

³ See Complaint at 5; Response to Motion to Dismiss at 3.

⁴ Complaint at 5.

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letter carrier attempted to deliver mail to Complainant's residence.⁵

b.

No. The Postal Service would not reinstate mail delivery to Complainant's front porch and discontinue the dog hold because Cookie's absence from Complainant's residence does not negate the Postal Service's legitimate concern for the letter carrier's safety. As noted in the response to question 1.a., above, after Cookie's adoption, at least one other dog at Complainant's residence was reported as behaving aggressively when the letter carrier attempted to deliver mail to Complainant's address. This subsequent aggressive behavior by a different dog at Complainant's address raised new safety concerns for the letter carrier.⁶

If it is Complainant's contention that this different dog, other than Cookie, is also no longer present, the Postal Service would note that Complainant has not taken steps to address the Postal Service's safety concerns, as he has not: (1) notified local management that there is no longer an aggressive dog present; or (2) demonstrated that the dog hold should be lifted (*i.e.*, ensured complete control of his animal(s) to avoid further delivery interferences and informed the Postal Service of such steps). Additionally, Complainant was (and remains) uncooperative: he has failed and refused to comply with local management's instructions as provided by the Seattle District's

⁵ Docket C2019-1, United States Postal Service Motion to Dismiss with Prejudice the Complaint of Randall Ehrlich, November 23, 2018 (hereinafter "Initial Motion to Dismiss"), Exhibit A – Declaration of John Bell, Attachment 1, at 2; *see also* Responses of the United States Postal Service to Questions 1-2 of Chairman's Information Request No. 1, January 23, 2020 (Responses to ChIR No. 1), Exhibit 2 - Letter from Letter Carrier to Management dated August 9, 2015, re: 2nd Dog Interference Incident.

⁶ Initial Motion to Dismiss, Exhibit A – Declaration of John Bell, Attachment 1, at 2-3 (showing aggressive dog reports submitted after the adoption of Cookie). *See also supra* footnote 4.

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Animal/Insect Policy⁷ ("District Animal/Insect Policy"); and he has refused to relocate his mailbox to the safer location local management identified following a site visit.⁸ Under these circumstances, local management's decision to continue the dog hold is reasonable.

c.

If local management determined there was no longer a potential threat to the letter carrier's safety from a dog, it would lift a dog hold that is in place. However, a potential threat still exists at Complainant's residence, as evidenced by the following: (1) Complainant's failure to take steps, or to indicate he has taken steps, to ensure complete control of his animal(s) to prevent further delivery interferences; (2) the aggressive behavior of at least one dog, after Cookie's adoption, towards the letter carrier; and (3) Complainant's failure to cooperate by relocating his mailbox.

As the Postal Service noted in its response to Chairman's Information Request No. 1:

A dog hold can be successfully removed if the customer is cooperative, has complied with local management's instructions (e.g., has relocated box to curb), and has taken steps to ensure complete control of their animal(s). If there are no further delivery interferences involving the customer's animal(s), then delivery may be resumed if agreed upon by the manager and letter carrier.⁹

⁷ Responses to ChIR No. 1, Exhibit 1 (Seattle District's Animal/Insect Policy).

⁸ Docket C2020-1, United States Postal Service Motion to Dismiss with Prejudice the Complaint of Randall Ehrlich, January 13, 2020 (hereinafter "Second Motion to Dismiss"), at 17-18 (describing Complainant's failure to comply and citing numerous sources regarding such failure); *see also* Initial Motion to Dismiss, Exhibit A – Declaration of John Bell, Attachment 3 (letter noting continued failure of Complainant to move mailbox as late as May 2017).

⁹ Responses to ChIR No. 1 at 4-5; *see also id.* at Exhibit 1 (Animal/Insect Policy, including procedures to lift dog holds as well as steps to be followed to protect letter carriers).

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Unfortunately, this is not the case with Complainant, as he has not indicated a willingness to cooperate with local management's requests to relocate his mailbox, and has not provided proof that he has taken steps to ensure complete control of his animal(s) to prevent further delivery interferences.

d.

Consistent with its response to question 1.c. above, the Postal Service asserts that it would not continue a dog hold if there was "no potential threat to the letter carrier." Complainant identified one instance when a dog hold was discontinued after local management concluded their investigation.¹⁰ On May 27, 2016, local management received a complaint from the Occupational Safety and Health Administration (OSHA) regarding an aggressive dog on the 5600-5700 Block of 8th Avenue, Seattle, Washington.¹¹ In this instance, local management conducted an investigation, and having found that there was no threat of animal interference at the specific location where mail delivery had been suspended, resumed mail delivery to that address.¹²

OSHA issued a complaint on February 15, 2017, related to Complainant's aggressive dog(s).¹³ Responding to this complaint, local management investigated and determined that Complainant's mailbox needed to be moved to ensure the letter carrier's safety.¹⁴ Despite agreeing to move his mailbox to the agreed-upon location,

¹⁰ Docket No. C2019-1, Complaint of Randal Ehrlich, November 2, 2018 (Initial Complaint), at 2-4 (discussing Peggy Hougardy's resumption of mail delivery after investigation).

¹¹ OSHA Complaint No. 1095957 is attached to this Response to ChIR No. 2 as Exhibit 1.

¹² Response to OSHA Complaint No. 1095957 is attached to this Response to ChIR No. 2 as Exhibit 2 (demonstrating resumption of mail after it was placed on hold, after management investigation).

¹³ OSHA Complaint No. 1183027 is attached to this Response to ChIR No. 2 as Exhibit 3.

¹⁴ Response to OSHA Complaint No. 1183027 is attached to this Response to ChIR No. 2 as Exhibit 4.

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Complainant did not do so.¹⁵ Consequently, Complainant's mail service was discontinued.¹⁶

While its employees' protection remains paramount, the Postal Service has demonstrated that it does not issue or continue dog holds without legitimate reasons. Depending on each case's specific facts, and after investigation and consideration by local management, in consultation with the affected letter carrier, a decision is made to continue or discontinue a dog hold. Some circumstances justify the discontinuance of a dog hold, while others require the continuance of a dog hold as a necessary safety precaution. The latter is a reasonable result given the specific facts in Complainant's case.

¹⁵ Responses to ChIR No. 1, Exhibit 5 (emails between Complainant and Postal Service management).

¹⁶ *Id.*

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2. In its response to Chairman's Information Request No. 1¹⁷, the Postal Service states that it "does not expect its employees to be experts in animal behavior or to attempt to determine which dog may be dangerous." Response to CHIR No. 1, question 1.b. The Complainant alleges that a Postal Service representative came to Complainant's residence and had a positive interaction with Complainant's remaining dog. Complaint at 5; Response to Motion to Dismiss at 3.
- a. Please explain why a visit from a Postal Service representative with a positive interaction with the dog at Complainant's residence was not sufficient to lift the ongoing dog hold.
 - b. Please provide any records in the Postal Service's possession regarding the visit by the Postal Service representative to Complainant's residence.

RESPONSE:

a.

The Postal Service is not specifically aware of who might have had a "positive interaction" with Complainant's dog, but states that a single, positive interaction with an animal while its owner/caregiver is present and nearby - whether experienced by a Postal Service employee or an OSHA inspector - is insufficient to warrant the discontinuance of a dog hold. Even assuming *arguendo* that another person had a positive interaction with one of Complainant's dogs while Complainant was present and nearby, local management must reasonably determine if there is a potential threat to the letter carrier's safety, considering such factors as the letter carrier's experience, location of the mailbox, and the actions (or inaction) of the animal's owner/caregiver in ensuring complete control of the animal(s) to prevent delivery interferences involving those animal(s). In this instance, the letter carrier documented multiple encounters with dogs behaving aggressively at Complainant's residence, with at least one encounter involving a different dog other than Cookie.

Local management made multiple site visits to Complainant's residence, including several visits from John Bell, Manager, Customer Services, when the first

¹⁷ Responses to CHIR No. 1, January 23, 2020.

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dog hold issued.¹⁸ OSHA also conducted investigations and made a site visit to Complainant's neighborhood.¹⁹ Complainant, in his capacity as a temporary caregiver to dogs eligible for adoption by others, has had different dogs at his home, at least two of which have displayed aggressive behavior on different occasions.²⁰

Accordingly, local management determined that adjustments, in conformance with the Seattle District Animal/Insect Policy, needed to be made at Complainant's delivery point for the letter carrier's safety. After initially requiring a curbside mailbox, local management made a concession, as Complainant requested and agreed to, that the mailbox could be placed on Complainant's driveway fence. However, this concession was conditioned on Complainant locating the mailbox at a site local management determined was necessary for the letter carrier's safety and to meet Postal Service standards.²¹ In determining this course of action, local management also considered the letter carrier's safety concerns and experiences.²²

The letter carrier's experience of aggressive behavior from Complainant's dog(s), coupled with local management's investigations and multiple site visits, verbal and written communications with Complainant, and OSHA complaints and site visits, are what led to the issuance of dog holds in the first place. The Postal Service has a duty to ensure its employees' safety while those employees are carrying out their daily assigned duties. Local management could not, in good faith, discount its letter carrier's legitimate safety concerns based on what the letter carrier experienced on more than one occasion with more than one of Complainant's dogs acting aggressively.

¹⁸ Initial Motion to Dismiss, Exhibit A - Declaration of John Bell at 2-3. More recently, the current manager at the Ballard Post Office, Manager, Customer Services, On Bong Wong, also went to Complainant's address in January 2020, to observe the mailbox's location, but he did not talk to Complainant during that site visit or document the site visit on a Postal Service form.

¹⁹ OSHA Complaint No. 1095957 is attached to this Response to ChIR No. 2 as Exhibit 5 (finding unleashed dog issues and recommending the installation of a cluster box unit and Postal Service adherence to the animal/insect policy).

²⁰ See Docket C2019-1, Complainant's Response to USPS's Motion to Dismiss, Declaration of Adam P. Karp at 42 (Bates No. KARP000038).

²¹ Initial Motion to Dismiss at 13-14.

²² See Responses to ChIR No. 1, Exhibit 1.

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It is noteworthy to mention that, prior to the letter carrier's interactions with Complainant's dogs, the letter carrier was attacked by an off-leash German Shepherd dog -- the same type of dog Complainant owned -- in Complainant's neighborhood in August 2015.²³ As the individual at potential risk of harm, and the individual who has consistent interactions with animals at delivery addresses, the letter carrier's judgment and input are necessary factors that must be considered by local management when determining whether to continue or discontinue a dog hold.²⁴ Local management made a reasoned, non-discriminatory determination in this situation.

b.

The Postal Service previously provided documentation of site visits and local management's determination from those visits are set forth in the Declaration of John Bell,²⁵ as well as information regarding the OSHA investigation of the route where Complainant's residence is located.²⁶ The Postal Service has attached two additional exhibits to this response filing (Exhibits 6 and 7), each of which references site visits to Complainant's residence by Postal Service personnel.²⁷

²³ Initial Motion to Dismiss, Exhibit A - Declaration of John Bell at 2.

²⁴ As noted previously, dog attacks and dog bites are a serious threat to letter carriers. In 2017, 6,244 Postal Service employees were victimized by dogs. Postal Bulletin, PB 22490 (March 29, 2018) at 3, available at: <https://about.usps.com/postal-bulletin/2018/pb22490/html/cover.htm>. In 2014, 5,767 Postal Service employees were victimized by dogs. Postal Bulletin, PB 22414, (April 30, 2015) at 3; available at: <http://about.usps.com/postal-bulletin/2015/pb22414/pb22414.pdf>. See also Postal Bulletin, PB 22388, (May 1, 2014) at 3; available at: <http://about.usps.com/postal-bulletin/2014/pb22388/pdf/pb22388.pdf>. In 2016 and 2017, Seattle ranked 13th in the U.S. for dog attacks of letter carriers. See <https://about.usps.com/news/national-releases/2018/pr18-025.htm>.

²⁵ See Initial Motion to Dismiss, Exhibit A – Declaration of John Bell and attachments.

²⁶ See *supra* footnotes 11-14.

²⁷ For Exhibit 6 to this response filing, the Postal Service has redacted certain personal information, relying on the justification stated in Responses to ChIR No. 1 Exhibit 8, Application for Nonpublic Treatment of Materials.

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3. The Seattle District Animal/Insect Policy (Policy), cited by the Postal Service in Exhibit 1 to its Response to CHIR No.1, uses a carrier's qualitative discretion in determining when a dog hold may be lifted. The Policy states that "[w]hen there is an unrestrained dog anywhere in the proximity of a delivery, mail will be withheld from *as many deliveries as necessary* to ensure the employee's safety...[i]f the situation is corrected to the point where the *carrier no longer feels an immediate threat*, delivery may be resumed." Response to CHIR No. 1, Exhibit 1 at 1 (emphasis added). Please describe the safeguards or due process the Postal Service provides pursuant to its policy to insure that the carrier's subjective judgment for lifting a dog hold does not contravene the prohibition against undue discrimination among postal customers in 39 U.S.C. § 403(c).

RESPONSE:

As the Postal Service has noted in each of its filings under Docket Nos. C2019-1 and C2020-1, including its recent Response to ChIR No. 1, local management consulted with the letter carrier after she reported each aggressive animal incident involving Complainant's dogs. The letter carrier's subjective judgment is not the sole determining factor in any decision to issue, continue, or discontinue a dog hold. Local management's objective investigation, review of the facts, site visits, and discussions with the letter carrier and Complainant provided Complainant adequate due process.

Complainant's dog Cookie demonstrated aggressive behavior on multiple days in a row, specifically on July 17 and 18, 2015, resulting in the issuance of the Memorandum of Understanding (MOU) on July 20, 2015. That MOU, which Complainant signed, acknowledges that Complainant may be required to move his mailbox to a location approved by the Postal Service to ensure the letter carrier's safety, and that mail delivery to his street address may be discontinued for failure to control his dogs.²⁸ Complainant did not adhere to the MOU, as additional aggressive animal incidents occurred and additional Dog Problem reports were issued.²⁹ Furthermore, additional aggressive dog incidents occurred after Cookie's

²⁸ Initial Motion to Dismiss, Exhibit A - Declaration of John Bell, Attachment 2.

²⁹ *Id.*, Attachment 1, at 2; *see also* Responses to ChIR No. 1, Exhibit 2 (Letter from Letter Carrier to Management dated August 9, 2015, re: 2nd Dog Interference Incident).

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adoption. And as previously noted, the letter carrier had been attacked by a German Shepherd who lived near Complainant's residence.³⁰

As OSHA noted potential issues with Complainant's dog(s), local management met telephonically and in person with Complainant on multiple occasions to reach a mutually agreeable and reasonable solution.³¹ Instead of requiring Complainant to install a curbside mailbox, local management offered to resume delivery service to his address if Complainant moved his mailbox approximately 6 feet closer to the sidewalk (away from the direct line of the doorsteps to his front/screen door). However, Complainant refused to do so, even though he had previously agreed to install the mailbox at the location identified by local management.³²

The above demonstrates that Complainant was afforded due process. Local management's decision to continue the dog hold was not based solely on the letter carrier's "subjective judgment," but also based on local management's objective review of reports involving multiple incidents with aggressive dogs at Complainant's address, Postal Service safety policies, the District Animal/Insect Policy, and Complainant's unwillingness to relocate his mailbox. The mailbox's relocation is a reasonably feasible solution that would address both Complainant's interest in receiving residential mail delivery and the letter carrier's legitimate safety concerns. The reason Complainant is being treated differently than other dog owners is because his dogs have behaved differently than other dog owners' dogs; accordingly, local management's actions toward Complainant do not constitute undue discrimination under 39 U.S.C. § 403(c).

³⁰ Initial Motion to Dismiss, Exhibit A - Declaration of John Bell at 2.

³¹ *Id.* at 3.

³² *Id.*

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4. The Policy also states that "[n]o mail will be delivered where a postal employee observes an unrestrained dog in the area." *Id.* It goes on to state that "[c]arriers will not enter into yards or areas where a dog (or dogs) are not being kept behind a solid closed door of wooden or steel construction (not a screen or storm door)..." Is it the Postal Service's position that no carrier in the Seattle District is continuing to deliver mail to houses where dogs are only restrained by a screen or storm door? If not, please explain.

RESPONSE:

It is not the Postal Service's position that no carrier in the Seattle District is continuing to deliver mail to houses where dogs are only restrained by a screen or storm door.

As the District Animal/Insect Policy states: "[c]urtailment under these circumstances would be dependent on the carrier's appraisal of the threat and likelihood of the animal becoming unrestrained."³³ A letter carrier must reasonably determine if there is a potential threat to his or her physical safety. When additional aggressive animal incidents occur, to ensure the letter carrier's safety, the District Animal/Insect Policy requires termination of residential delivery until a final resolution to the problem is reached, which often includes the step of moving the mailbox to a safer location.³⁴

Clearly, not every dog poses a potential threat to a letter carrier's safety. As an example, Complainant identifies neighbor Lisa Sorensen as a dog owner who receives mail. It is quite probable that Ms. Sorenson has only a screen door separating her dog from the letter carrier from time to time.³⁵ However, the District

³³ Responses to ChIR No. 1, Exhibit 1 – Animal/Insect Policy at 1.

³⁴ *Id.* at 3.

³⁵ Complaint at 13.

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Policy allows for some level of common sense, where the letter carrier appraises the likelihood of a dog becoming unrestrained.³⁶ It should be noted that there were no reported incidents involving aggressive behavior with Ms. Sorenson's dog, unlike Complainant's dog(s).³⁷ Letter carriers, and local management in working with letter carriers, must evaluate such variables as: (1) the size/weight of an animal; (2) the animal's distance from the door; (3) the presence of a sufficient barrier; (4) the letter carrier's observed behavior of the animal; and (5) the position of the mailbox (and thus the letter carrier) to the animal.

Again, not every dog at every residence can be said to pose a threat or potential threat to a letter carrier's safety, but in this case, the dog(s) at Complainant's residence demonstrated aggressive behavior on more than one occasion, and Complainant did not take reasonable steps to ensure the letter carrier's safety. Both the letter carrier and local management reasonably determined that there was a potential threat to the letter carrier's safety, and that potential threat has not been abated with the passage of time. By relocating his mailbox 6 feet from its present location as requested by local management on multiple occasions, mail delivery to Complainant's residence would be restored and this long-standing dispute would end.

³⁶ Responses to ChIR No. 1, Exhibit 1 – Animal/Insect Policy.

³⁷ Complaint at 13.

EXHIBIT 1 TO THE RESPONSE TO CHIR NO. 2

OSHA COMPLAINT NO. 1095957

U.S. Department of Labor

Occupational Safety and Health Administration

Bellevue Area Office
520 - 112th Avenue NE, Suite 200
Bellevue, WA 98004
Phone: (425) 450-5480 Fax: (425) 450-5483
<http://www.osha.gov>



May 27, 2016

John Smith
U.S. Postal Service
4501 9th Avenue NW
Seattle, WA 98107

RE: OSHA Complaint No. 1095957

Dear Mr. Smith:

On May 26, 2016, the Occupational Safety and Health Administration (OSHA) received a notice of alleged workplace hazard at your worksite at:

5600-5700 Block 8th Ave NW
Seattle, WA 98107

We notified you by telephone of these alleged hazards on May 27, 2016. The specific nature of the alleged hazards is as follows:

Location: 5600-5700 Block of 8th Avenue NW Ballard

Description: employee is expected to deliver to a location with an aggressive dog.

We have not determined whether the hazards, as alleged, exist at your workplace, and we do not intend to conduct an inspection at this time. However, because allegations of violations and/or hazards have been made, we request that you immediately investigate the alleged conditions and make any necessary corrections or modifications. Please advise me in writing, no later than **June 6, 2016**, of the results of your investigation. You must provide supporting documentation of your findings. This includes any applicable measurements or monitoring results; photographs/video that you believe would be helpful; and a description of any corrective action you have taken or are in the process of taking, including documentation of the corrected condition.

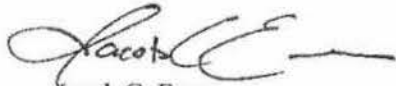
This letter is not a citation or a notification of proposed penalty which, according to the Occupational Safety and Health Act, may be issued only after an inspection or investigation of the workplace. It is our goal to assure that hazards are promptly identified and eliminated. Please take immediate corrective action where needed. **If we do not receive a response from you by June 6, 2016 indicating that appropriate action has been taken or that no hazard exists and why, an OSHA inspection will be conducted.** An inspection may include a review of the following: injury and illness records, hazard communication, personal protective equipment, emergency action or response, bloodborne pathogens, confined space entry, lockout/tagout, and related safety and health issues.

Please also be aware that OSHA conducts random inspections to verify that corrective actions asserted by the employer have actually been taken.

You are requested to post a copy of this letter where it will be readily accessible for review by all of your employees, and to return a copy of the signed Certificate of Posting (Attachment A) to this office. In addition, you are requested to provide a copy of this letter and your response to a representative of any recognized employee union or safety committee that exist at your facility. Failure to do this may result in an on-site inspection. The complainant has been furnished a copy of this letter and will be advised of your response. Section 11(c) of the Occupational Safety and Health Act provides protection for employees against discrimination because of their involvement in protected safety and health activity.

If you have any questions regarding this matter, please contact our office. The contact information is listed on the first page of this document. Your interest in the safety and health of your employees is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Jacob C. Ewer", followed by a horizontal line.

Jacob C. Ewer
Area Director

Attachment A

**CERTIFICATE OF POSTING
OSHA NOTIFICATION OF ALLEGED HAZARD(S)**

Employer Name: U.S. Postal Service
Complaint Number: 1095957

Date of Posting: _____

Date Copy Given to an Employee Representative: _____

On behalf of the employer, I certify that, on _____, a copy of the complaint letter received from the Occupational Safety and Health Administration (OSHA) was posted in a place where it is readily accessible for review by all employees, or near such location where the violation occurred, and such notice has been given to each authorized representative of affected employees, if any. This notice was or will be posted for a minimum of ten (10) days or until the hazardous conditions referenced in the letter are corrected.

Signature

Title

Employer/Establishment name

EXHIBIT 2 TO THE RESPONSE TO CHIR NO. 2
RESPONSE TO OSHA COMPLAINT NO. 1095957



June 6, 2016

Certified Mail # 7006 0810 0002 6252 9235

Jacob Ewer
OSHA, U.S. Department of Labor
520 112th Ave NE Suite 200
Bellevue, WA 98004

Re: Complaint Number 1095957

Dear Mr. Ewer:

We received a notice of alleged hazard as follows:

Description: *employee is expected to deliver to a location with an aggressive dog.*

Location: *5600-5700 Block of 8th Ave NW Ballard*

On Thursday May 5, 2016, a customer inquired why they were not receiving mail at 5622 8th Ave NW Seattle, WA 98107. The manager went to this address and knocked on the door, but received no answer. There was no fencing around any of the houses in the surrounding area to restrict a loose dog. One of the neighbors said there was no dog at this address anymore.

Friday May 6, 2016, the customer informed the supervisor the dog was no longer lived at this address.

Monday May 9, 2016, the regular carrier said that in August 2015, a dog at that address threatened the carrier, and the mail was placed on hold. Management made another visit to the residence, but again, the residents were not home. Another neighbor confirmed that no dog resided at that residence.

On Tuesday May 10, 2016, the carrier was told resume delivering the mail for this address since the dog hazard no longer existed. Mail has been delivered to this address by several different carriers since and no dog has been seen at this address.

We strive to be proactive in providing the safest and best possible working environment for our employee in this facility. We share your concern for safety in the workplace and appreciate your cooperation. If you are in need of additional information, please feel free to contact me at (206) 381-6601.

Sincerely,

John Smith
Customer Service Manager
4501 9th Ave NW
Seattle, WA 98107
(206) 381-6601

EXHIBIT 3 TO THE RESPONSE TO CHIR NO. 2

OSHA COMPLAINT NO. 1183027

U.S. Department of Labor

Occupational Safety & Health Administration
520 112th Ave NE, Suite 200
Bellevue WA 98004
Phone 425.450.5480
Fax 425.450.5483



February 15, 2017

John Bell, Manager
4501 9th Ave. NW
Seattle, WA 98107

Re: Complaint Number 1183027

Dear Mr. Bell:

On February 15, 2017, the Occupational Safety and Health Administration (OSHA) received notice of safety and health hazards at your worksite. The specific nature of the alleged hazard is as follows:

HAZARD: Employees are exposed to attack from an aggressive dog at the address below. Post Office is not following policy in that they are reevaluating the situation, up to and including resuming delivery at the location, rather than requiring the home owner to relocate the mail box. This could potentially put carriers at risk of being bit.

LOCATION: 5833 7th Ave NW, Seattle, WA 98107

We have not determined whether the hazards, as alleged, exist at your workplace; and we do not intend to conduct an inspection at this time. However, since allegations of violations have been made, we request that you immediately investigate the alleged conditions and make any necessary corrections or modifications. Please advise me in writing, no later than February 22, 2017 of the results of your investigation. A response may be made via fax, mail or email (ewer.jacob@dol.gov and marker.kathie@dol.gov). You must provide supporting documentation of your findings, including any applicable measurements or monitoring results, and photographs which you believe would be helpful, as well as a description of any corrective action you have taken or are in the process of taking.

This letter is not a citation or a notification of proposed penalty which, according to the OSH Act may be issued only after an inspection of the workplace. It is our goal to assure that hazards are promptly identified and eliminated. Please take immediate corrective action where needed. We encourage employee participation in investigating and responding to any alleged hazard. If we do not receive a response from you indicating that appropriate action has been taken or that no hazard exists and why, an OSHA inspection will likely be conducted.

An inspection may include a review of the following: injury and illness records, hazard communication, personal protective equipment, emergency action or response, bloodborne pathogens,

confined space entry, lockout/tagout and related safety and health issues. Please note, however, that OSHA selects for inspection some cases where we have received letters in which employers have indicated satisfactory corrective action. This is to ensure that employers have actually taken the action stated in their letters.

You are requested to post a copy of this letter where it will be readily accessible for review by all of your employees and return a copy of the signed Certificate of Posting to this office. In addition, you are requested to provide a copy of this letter and your response to a representative of any recognized union or safety committee if these are at your facility. Failure to do so may result in an on-site inspection.

The complainant will be provided a copy of your response. Section 11(c) of the OSH Act provides protection for employees against discrimination because of their involvement in protected safety and health activity.

If you have any question concerning this matter, please contact any staff member at the address in the letterhead. Your personal support and interest in safety and health of your employees is appreciated.

Sincerely,


Jacob C. Ewer
Area Director

Enclosures

U.S. Department of Labor

Occupational Safety & Health Administration
520 112th Ave NE, Suite 200
Bellevue WA 98004
Phone 425.450.5480
Fax 425.450.5483



CERTIFICATE OF POSTING
OSHA NOTIFICATION OF ALLEGED HAZARD(S)

Complaint Number: 1183027

Date of Posting: _____

Date Copy Given to an Employee Representative: _____

On behalf of the employer, I certify that a copy of the complaint letter received from the Occupational Safety and Health Administration (OSHA) has been posted in a conspicuous place, where all affected employees will have notice, or near such location where the alleged hazardous condition(s) occurred, and such notice has been given to each authorized representative of affected employees, if any. This notice was or will be posted for a minimum of ten (10) working days or until any hazardous conditions found are corrected.

Signature

Title

EXHIBIT 4 TO THE RESPONSE TO CHIR NO. 2
RESPONSE TO OSHA COMPLAINT NO. 1183027



February 22, 2017

Certified Mail # 7011 1150 0001 7537 5114

Jacob Ewer
OSHA, U.S. Department of Labor
520 112th Ave NE Suite 200
Bellevue, WA 98004

Re: Complaint Number 1183027

Dear Mr. Ewer:

We received a notice of alleged hazard as follows:

Description: Employee are exposed to attack from an aggressive dog at the address below. Post Office is not following policy in that they are reevaluating the situation, up to and including resuming delivery at the location, rather than requiring the home owner to relocate the mail box. This could potentially put carriers at risk of being bit.

Location: 5833 7th Ave NW, Seattle WA 98107

In July 2015, there was a dog incident at 5833 7th Ave NW. The customer's mailbox was next to an open door and the customer's dog was barking behind a screen door. The carrier didn't feel safe delivering to the address with the front door being opened. Per district policy carriers will not enter into yards or areas where a dog is not being kept behind a solid closed door of wooden or steel construction at least 20 feet from the mail receptacle. On July 20, 2015, the customer signed a MOU (Dog Letter) regarding the incident. In August of 2015, another dog incident occurred and a 'dog hold' was initiated per our dog control policy. Animal control was notified but declined to pursue since the dog was confined to the residence. The customer refused to sign the Dog Control Agreement Letter so his mail delivery was suspended at this time. In September 2015, Management met with the customer and he agreed to move his box to the sidewalk, but in October 2015, the customer informed the Post Office that he would not be moving his mailbox. The customer's mail service was discontinued to the address, but it was held at the Post Office where he was allowed to pick up his mail. In accordance with the district dog policy, mail

- 2 -

delivery to his address has been discontinued. Mail delivery to the address will not resume unless a resolution of the problem has been reached. Management has accommodated this customer by instructing the carrier to hold his mail at the case, so that the customer can pick it up at the Post Office. Holding the customer's mail at the Post Office for pick up does not violate the district's dog policy or present a safety hazard for the carriers.

We strive to be proactive in providing the safest and best possible working environment for our employee in this facility. We share your concern for safety in the workplace and appreciate your cooperation. If you are in need of additional information, please feel free to contact me at (206) 381-6601.

Sincerely,



John Bell
Customer Service Manager
4501 9th Ave NW
Seattle, WA 98107
(206) 781-0148

EXHIBIT 5 TO THE RESPONSE TO CHIR NO. 2

OSHA COMPLAINT NO. 1095957

U.S. Department of Labor

Occupational Safety & Health Administration
520 112th Ave. NE, Suite 200
Bellevue, WA 98004
Phone 425-450-5480
Fax 425-450-5483



July 13, 2016

John H Smith Jr., Customer Service Manager
U.S. Postal Service
4501 9th Avenue NW
Seattle, WA 98107

Re: Inspection 1157605/Complaint 1095957

Dear Mr. Smith:

An inspection of your workplace at Ballard Carrier Annex on June 23, 2016 disclosed the following hazard:


The owner at 5622 8th Street has several dogs one of which bit a carrier on August 2015. This has been an ongoing issue with seven documented unleashed dog sightings. Three have occurred within the past year.

Since no OSHA standard applies and it is not considered appropriate at this time to invoke Section 5(a)(1), the general duty clause of the Occupational Safety and Health Act, no citation will be issued for this hazard.

In the interest of workplace safety and health, however, I recommend that you take the following steps voluntarily to eliminate or reduce your employees' exposure to the hazard described above:

- It is recommended that the U.S. Postal Service install a cluster box unit (CBU) for the block based on the number of unleashed dog reports and the fact that there are no fences on this block.
- Ensure that all aspects of the U.S. Postal Service written animal/insect policy for aggressive dog sightings and bites are being followed.

Sincerely,


Jacob C. Ewer
Area Director

cc: NALC, Local 79
USPS District Safety Manager

EXHIBIT 6 TO THE RESPONSE TO CHIR NO. 2

EHRlich LETTER TO PMG (RECEIVED 2-6-17)

Seattle

The Honorable Megan Brennan
Postmaster General,
United States Postal Service,
475 L'Enfant Plaza SW,
Washington DC 20260-0010



RECEIVED
Office of the PMG

RECEIVED
Office of the PMG
FEB 9 2017

Re: Mail Delivery

This past August 2015, I had my door open. In place was a metal gate and a closed screen door. The mail carrier on my route, Tonja Voisine had come to deliver my mail and my dog at the time had barked at the sound of someone approaching the door. However, she made no attempt to breach the metal gate. A few days later I noticed that I was no longer receiving mail and a form from the post office was left in my mailbox stating that I needed to sign the letter and to prevent any animal from being a threat to the carrier. I signed the letter and returned it and soon had mail delivery resumed. A few days after that, without any warning nor explanation, my mail was now longer being delivered. I had no idea why it had stopped again since I received no notice whatsoever that my mail was being stopped.

I went to the Ballard Annex post office and discovered that my mail was not being delivered and that it was being put on "Dog Hold" until I put a mailbox up on a post directly on the sidewalk. Due to the fact that my neighborhood has recently experienced high mail and package theft, I didn't agree that location to be a safe for my mail. I had offered a compromise and suggested that the mail box be mounted well away from my front door and around the corner of the house, but when I picked up my mail from the post office there was an unsigned/anonymous scribbled note in there saying that the mailbox had to be in an exact spot and that there were no exceptions. I could not understand how this was professional to have someone leaving anonymous drawings in my mail for pick up.

In the meantime, the original dog from the original complaint was adopted out to another family. I then adopted another dog that was much calmer. When I called the post office, I had the Safety Inspector Aldrich come out and visit. He met my dog and had a very good interaction with him. Although that went very well, I found out that the only person he reported his findings to was Tonja and despite the fact that my dog posed no threat to the safety inspector, Tonja still refused to deliver mail to the mailbox on the front of my house. This was despite having never encountered my dog. Even though there being no threat whatsoever by this new dog, she still refused to deliver my mail, just by

the reasoning that a dog resided in my house, despite the fact that she never had any interaction with it.

I had contacted Postal Consumer Affairs repeatedly without any resolve or success in moving forward with this issue. In the meantime, because it took so long to get in touch with management, my mail started to get returned to sender and I lost several weeks of important mail. Once I was able to get in touch with Mike Fletcher, I was told that my mail would be put on hold again while options for mail delivery would be investigated. Shortly after that, before I could take any action, I found my mail was being returned to sender once again.

It took me several weeks to correct the situation and start having my mail put back on hold. All this time, whenever I would visit the Ballard Postal Annex to pick up my mail, I would get lectured by various supervisors about how I have to restrain my "dog" and have to get a mailbox on a post by the sidewalk. Either that, or some supervisors told me that my mail was fine and being held, but then I'd come in and find out it was all being returned to sender.

By the time Mike Fletcher intervened I had lost many weeks of mail and finally got assurance that my mail would be firmly put on hold until the issue was resolved. At this point, I contacted Mike Fletcher as well. Mike Fletcher told me that it's not about the dogs, but that it's about Tonja and that it's difficult to change things because of the union and that Tonja is a veteran. We agreed that I would collect statements from my neighbors that had encountered similar situations and I gathered several dozen statements. In the following weeks, I approached many of my local neighbors either in person or by email or social media. I discovered that there is a pattern of Tonja inventing claims of her being threatened or being unable to deliver mail. Many of those people would then suddenly discover that their mail was either being held at the post office or being returned to sender without proper notification that this action was taking place. A pattern of bullying has been taking place with Tonja making unnecessary and unreasonable demands on people with the threat of stopping their mail. Her malicious actions towards many neighbors can be exemplified by a neighbor who witnessed Tonja pepper spraying another neighbor's window because there was a dog in that house. Tonja came back later to clean off the window and admitted to this woman that she has an anger problem. I also spoke to another neighbor who in a conversation with Tonja heard her say she lies to her supervisors about the complaints she makes about people. Both of these neighbors are unwilling to come forward currently as they are extremely fearful that their statements will get back to Tonja and Tonja will either tamper with their mail or will fabricate a reason to stop delivery and they will lose important mail. This is understandable concern as there is no independent third party to confirm all of Tonja's

complaints and there is no written documentation to assure them that there will be no consequences to their mail delivery by Tonja if they become a "whistleblower" and expose her behavior. There are enough neighbors on her route who have had similar experiences, and many of them have complained individually to the Post Office without success.

In gathering statements from neighbors on the West Woodland Facebook web, I understand that the moderator of the facebook page, Sue Pierce was intimidated by Tonja and other postal workers in an attempt to get access to the "invitation only" Facebook page for those living in this neighborhood. If needed, I can forward statements from many of my neighbors.

The pattern of events from most of the complaintiffs is that an incident supposedly happens and Tonja escalates the issue or fabricates events that can't be substantiated. Her words are never confirmed by any third party investigator. According to Mike, Tonja had been "disciplined" due to these complaints, but whatever that discipline was, it had absolutely no impact on the restoration of mail delivery despite there being numerous amounts of complaints about her and that no one was doing anything about it.

This Spring, after having had to get my mail put back on hold numerous times, despite Mike Fletcher assuring me that my mail would be held, I found out that Mike Fletcher was leaving the Ballard Annex, and all the supposed work he was doing to resolve this issue was for naught. As soon as he left, my mail again was taken off of hold and was then again returned to sender for the fourth time.

I had tried contacting the new Ballard Postmaster, John Smith, but with limited success and he did nothing to restore my mail delivery let alone get it put back on hold. I tried numerous times to contact him and he neither returned my calls or responded to my emails.

Soon afterwards I heard that some other of my neighbors had contacted a local TV news agency, King5 and they had a story on how a number of people on a block very close to mine had there mail delivery cut off, some of them for years. These people I found out where also on delivery route 40, Tonja's route. I contacted the news reporter and they did a follow up story about me and another neighbor, Mark Middlebrooks who had also not received mail for a number of years.

<http://www.king5.com/news/local/seattle/no-mail-delivery-in-ballard-neighborhood-for-nearly-three-years/185128503>

<http://www.king5.com/news/local/more-complaints-about-no-mail-delivery-in-ballard/229523633>

It was only after we appeared on the news that we heard from Trent McNeal and he agreed to meet with Mark Middlebrooks and I. He seemed to understand the situation and said he would do an investigation. However, the only investigation I ever heard about was an OSHA investigation about safety for the postal carrier and nothing about the numerous complaints about Tonja. That was over a month ago and even though my mail is once more being kept on hold at the Ballard annex, I have heard nothing more about the results of such an investigation. My mail gets delivered intermittently, but I assume that is only when some other carrier other than Tonja is on that route. I have been trying to get my mail service resumed for almost a year now, but because of this one mail carrier, Tonja, and the unwillingness of any managers to address her behavior, I and many of my neighbors continue to have to have our mail put on hold, sent to PO boxes or have our mail delivered elsewhere.

The latest results of Tonja withholding my mail, is that I had a ballot from last November returned to sender. The result of that was that I was unregistered to vote, and I totally missed the latest vote, because by the time I discovered about my registration status, it was too late to vote in this election.

As many of my neighbors have pointed out, the issue is about the carrier Tonja, and not about the neighborhood pets. Even Mike Fletcher, the former postmaster of the Ballard annex had confided in me that 'it's not about the dogs'.

Both Mark Middlebrooks and I, plus many other neighbors have gone down this route before, where it's always come back in the eyes of the USPS as being a 'dog problem' and Tonja's behavior is never addressed. People are afraid to come forward and speak about what she's said and done. Of course these people won't come forward because what has happening to Mark, I and others, will probably happen to them and they'll have their mail stopped.

As I mentioned before, when Tonja stops someone's mail for dog issues, no one ever validates that there is an actual problem. Basically she can say whatever she wants and that goes. Considering how many people have had their mail delivery impacted, resulting in 2 television news stories, collections of several dozens of complaints delivered to the Ballard USPS annex and the involvement of Jim McDermott's office. That strikes me as being indicative of a greater problem than just unruly dogs.

So yes, by all means, please rule out that it's not some sort of freak cluster of vicious dogs that happen to be just along Tonja's route, but consider that there is an insubordination issue going on, with Tonja unilaterally deciding that she will stop delivery to those people that she has issues with.

My neighbors and I would greatly appreciate it if you would take a look into this issue that has gone on for so long and so many of my neighbors have been thwarted in their attempts to get their mail delivery restored. I have spoken to several of her coworkers that have confided in us that Tonja has issues that cause her to behave erratically. It's terrible that her issues should affect our ability to receive mail.

P.S. As of now, my mail is once again being returned to sender (I believe this is the 5th time that has occurred since this issue had started). Trent McNeal is not responding to my requests for information about this. My neighbor Wendy Redding has rental property and her tenants are again not receiving their mail. This recent behavior of Tonja seems to have occurred coinciding with John Smith no longer being the postmaster of the Ballard Annex.

In addition, the last time I saw Tonja on the street delivering mail (not to my house of course), she made the gesture of "finger guns" in my direction. This type of gesture is a great concern for me.

Sincerely,

Randall Ehrlich
5833 7th Ave NW
Seattle WA, 98107

EXHIBIT 7 TO THE RESPONSE TO CHIR NO. 2
BELL EMAIL RE: MEETINGS WITH EHRLICH MAY 2017

From: Bell, John R - Bellevue, WA
To: McNeal, Trent J - Seattle, WA
Subject: Response to Ehrlich Congressional please proof read before i send.
Date: Wednesday, May 24, 2017 4:21:01 PM
Attachments: image001.png

I started this position late January 2017, in February 2017 I was informed of the dog issue and non-delivery for a few customers out of the Ballard office. I have went over all documentation available, I first met Randy Ehrlich in the PM conference room, a few of the customers where meeting with the PM and I was invited to sit in (being new in Seattle) to get an understanding of the situation. I also met with MR. Ehrlich at his house to speak of starting his mail delivery again, I brought the station NALY representative with me for the meeting and MR. Ehrlich invited Mark Middlebrooks, who was at the meeting in the PM conference room. Understanding that MR. Ehrlich's mail has been stopped for a number of years, my main concern and goal was to re-establish mail delivery to his address on record for the dog issue. Attached is the District Dog Program that in it states once an address has their mail stopped due to a dog issue, as long as the resident stays at that address the non-delivery will continue. While at MR. Ehrlich's home we discussed the mail delivery and what needed to be completed in order to finalize delivery, which was to move his mailbox to the corner of the fence, at this time it was positioned approximately 6 feet away, an easy fix MR. Ehrlich said he would think about it. The majority of the conversation was about the carrier and how she was manipulating the system and holding the customers around that block hostages in reference to receiving their mail. I explained to MR. Ehrlich that evidence would be needed in order to see if any misconduct had taken place, all I received was what you attached to this email. After waiting for three weeks I sent MR. Ehrlich an email and asked if he decided to move his box, he replied no he wasn't since no one has done anything with the carrier.

In all the dealings I have had with this customer I have come to the conclusion that it's not mail delivery he really wants, it's the termination of the carrier. He could have easily been getting his mail delivered but would not move the mailbox just so he has a platform to stand on to keep this issue alive. I explained to him that my main function is the delivery of the mail out of my office, not investigating postal employees, he needed to contact the OIG, I gave MR. Ehrlich the information he needed to contact the OIG and file a formal complaint.

On 5/18/2017 I went to MR. Ehrlich's residence to speak to him about moving his mailbox as we discussed, and to open a PO Box to receive mail if he did not have the mailbox moved to the location the Post Office agreed to within the time allotted, he was not home so I left him a letter to inform him of this (letter attached). I received a phone call from him on Monday 5/22/2017 and wanted to know what I was doing about the carrier. He had me on speaker phone, my administrative assistant was in my office at the time, I put MR. Ehrlich on my speaker so my assistant could take notes during the conversation (attached). During the conversation the main topic of discussion is why I haven't investigated the carrier for misconduct, I explained that is not my primary job description, if an employee is doing things that falls under misconduct and the proof is there I can act but when it's he said she said the preponderance of evidence is not there. I asked him if he turned it over to the OIG, he said yes, but they are not going to investigate. If the OIG looks through the documentation and not investigate that means there is not enough or no evidence to pursue.

I do not believe that anything less than terminating or moving the letter carrier to another route will this issue with MR. Hutch be resolved. The Post Office has over accommodated to appease this customer, and I understand it, but it is to no avail.

John R. Bell
Manager, Customer Service
Ballard Carrier Annex
PHONE: (202) 281-0148
John.R.Bell@usps.gov

**IF IT DOESN'T CHALLENGE YOU
IT DOESN'T CHANGE YOU**